



Wallace Yard and Spur Lines Site - edits & questions on July 24, 2009 CD

Wurtzler, Gail to: Clifford Villa

07/29/2009 05:22 PM

Cc: Darrell.Early, Sarah.Himmelhoch, craig.trueblood, "Lietz, Denise",
"Lawrence, Robert", "Gibson, Rebecca"

1 attachment



cd_pages.pdf

CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408

Cliff,

I attach the railroads' edits to the version of the CD that you circulated on July 24, 2009. Because the edits are minor, I printed out the document you sent and marked the edits by hand rather than trying to do another redline on top of the redline you sent. I am sending only the pages with edits or questions.

This, of course, is subject to BNSF and UPRR final management review and approval of all of the documents to be included in the package.

Most of the edits are self-explanatory. However, there are a few that I thought I would explain:

1. Definition of Future Response Costs - the language "in connection with the Site" should be inserted. That language is included in the definitions of Interim Response Costs and Past Response Costs.

2. Definition of Hostile Vegetation - as I mentioned in my email regarding the SOW edits, the PMPS do not specify hostile vegetation species, so the reference to PMPS in this definition should be deleted.

3. Definition of Past Response Costs - this is a question for you: because the State does not have Past Response Costs, shouldn't this definition be changed to say that?

4. Definition of Response Action - there is no RAD Work Plan, only

an RA Work Plan so the word "Plan" after "Response Action Work" should be singular.

5. Paragraph 11.a - the additional language is intended to clarify the purpose of the "construction drawings" and link those drawings to the DEQ report in Paragraph 11.c.

6. Paragraph 11.f - the additional language allows for the parties to determine based on field observations or whatever else might be appropriate that areas should be excluded from the BPRP.

7. Paragraph 13.c - does this language still apply when RA Work Plan will be attached? The railroads anticipate that documents attached to the CD and SOW are approved by EPA and that there will be no further approval process for any of them.

8. Paragraph 57.a - language is added to clarify that the report for BPRP costs is not the SCORPIOS report but is the report DEQ prepares. Therefore, the DEQ report should be included with or precede any bill for BPRP costs.

9. Paragraph 58 - language is added to clarify that the railroads can challenge response costs for work that is outside of the scope of the CD.

If you have any questions or comments, please call. I will be out of the office on Friday. Thanks.

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